

**BEFORE THE STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES**

<b>IN THE MATTER OF THE RATE UNBUNDLING</b>	)	<b>BPU Docket Nos.</b>
<b>FILINGS BY GAS PUBLIC UTILITIES</b>	)	<b>GX99030121</b>
<b>PURSUANT TO SECTION 10, SUBSECTION A</b>	)	<b>GO99030122</b>
<b>OF THE ELECTRIC DISCOUNT AND</b>	)	<b>GO99030123</b>
<b>ENERGY COMPETITION ACT OF 1999</b>	)	<b>GO99030124</b>
	)	<b>GO99030125</b>
<b>ELIZABETHTOWN GAS COMPANY</b>	)	
<b>NEW JERSEY NATURAL GAS COMPANY</b>	)	
<b>PUBLIC SERVICE ELECTRIC &amp; GAS COMPANY</b>	)	
<b>SOUTH JERSEY GAS COMPANY</b>	)	

---

**INITIAL BRIEF  
OF THE NEW JERSEY DIVISION OF THE RATEPAYER ADVOCATE  
COMPANY SPECIFIC RECOMMENDATIONS - SOUTH JERSEY GAS COMPANY**

---

**Blossom A. Peretz, Esq.  
Director and Ratepayer Advocate  
31 Clinton Street, 11th Floor  
P.O. Box 46005  
Newark, New Jersey 07101  
(973) 648-2690 - Phone  
(973) 624-1047 - Fax  
[www.njin.net/rpa](http://www.njin.net/rpa)  
[njratepayer@rpa.state.nj.us](mailto:njratepayer@rpa.state.nj.us)**

**On the Brief:**

Badrhn M. Ubushin, Esq.

COMPANY SPECIFIC RECOMMENDATIONS  
SOUTH JERSEY GAS COMPANY

TABLE OF CONTENTS

	Page No.
INTRODUCTION .....	1
A. Basic Gas Supply Service (“BGSS”) .....	6
1. Nature of BGSS .....	6
2. Single vs. Multiple BGSS Options .....	6
3. Terms and Conditions of BGSS .....	7
B. BGSS Rates/Shopping Credits .....	9
1. Proposed rate unbundling methodology .....	9
2. Lost Revenue Recovery Proposals .....	13
C. Unbundling of Gas Supply Services .....	16
1. Gas Supply Services Unbundled .....	16
2. Format of Tariffs .....	17
D. Capacity Assignment .....	20
1. Voluntary/mandatory assignment .....	20
2. Other issues .....	26
E. Societal Benefits Charge .....	28
1. Items recovered through SBC .....	28
2. Proposed two-way interest. ....	30
3. Interest rate. ....	30
4. Deferred accounting .....	31
5. Mechanics of SBC (establishment and true-up) .....	31
6. Applicability of SBC. ....	32

F. Customer Account Services .....	33
1. Required cost data .....	33
G. Other Recommendations .....	35
1. Aggregation data .....	35
2. Universal service fund proposals .....	35
3. Purchase of receivables. ....	36
CONCLUSIONS .....	38

## INTRODUCTION

Pursuant to Section 10(a) of the Electric Discount and Energy Competition Act, P.L. 1999, c. 23 (“Competition Act” or “Act”), and the Board Order Establishing Procedures, Docket No. GX99030121, issued March 17, 1999 (“Order Establishing Procedures”), on May 1, 1999 South Jersey Gas Company (“South Jersey” or “Company”) submitted its rate unbundling filing.

South Jersey's proposals for unbundling its rates for retail competition fall short of what is necessary to achieve the goals of competition and would, if adopted by the Board, defeat competition in the natural gas marketplace. Those goals of competition are providing the broadest possible customer choice; providing all customers, including small customers and low income customers, with the opportunity to share in the benefits of increased competition including reduced, affordable gas bills; ensuring full and fair competition in the gas supply market; unbundling the gas commodity sales services and gas distribution services; supporting and furthering environmental protections; and relying on incentive regulation where a fully competitive market cannot exist or does not exist.

**Generally, the problems with South Jersey's filing can be summarized by the Company's repeated statements that the results of this proceeding should keep the regulatory structure essentially very much the way it exists now from the utility's perspective.**

The Competition Act requires South Jersey and the other gas and electric utilities to enter the new world of customer choice and lower utility bills through retail competition. Proposals to keep customers essentially where they are today are in opposition to the goals of the Competition

Act and are an attempt to maintain the revenue protections of the current regulatory mechanisms instead of moving toward the future with both the customer benefits and Company benefits that competition can bring.

South Jersey also proposes to maintain “full margin rates”, saying that “it is wrong to move any costs away from transportation customers” because South Jersey would be the supplier of last resort for a three-year transition period under the Competition Act. *SJ-3*, p.11. This is the Company's reason to continue things as they are today and to continue to charge transportation customers for costs that “may not be applicable” to them. *Id.*

South Jersey's reluctance to face the effects of competition for retail customers is evident in this allegation that the success of its transportation program to date is due primarily to using full margin rates that provide the utility with the same net revenues even when customers buy their gas from an alternate supplier. *SJ-3*, p. 9. South Jersey would have the Board believe that this success comes because using full margin rates makes the Company “indifferent to the customer's supply choices or rate flexibility.” *Id.* The Company overlooks the possibilities that the success of the transportation programs could come from the fact that customers want to buy gas from alternate suppliers for reasons such as lower prices or superior service.

South Jersey also claims that changing the ratemaking methodology would be a mistake because it would “pit the needs of the customer against the needs of South Jersey. . . .” *Id.* In other words, the needs of South Jersey are more important than the needs of the customer and more important than the goals of the Competition Act. This argument is insupportable and provides no reasonable basis for maintaining the status quo. Maintenance of the status quo is antithetical to the Competition Act's goals.

For the next two winters, South Jersey also proposes giving transportation customers a choice of two options related to capacity costs that would reduce the flexibility that a third party supplier would reasonably want in deciding where to obtain capacity for its customers and how much is reasonable to pay for it. Option I is for transportation customers without telemetering capability (or who do not choose Option II) and would require them to pay for alleged “back-up capacity” costs related to capacity that South Jersey does not need to serve its own supply customers. This charge is called the “Capacity Allocation Back-Up (CAB) Rate.” *SJ-3*, p. 15. Option II is for telemetering customers who would be required to take a mandatory capacity assignment equal to their contract demand or equal to the customers' daily average gas consumption during a peak winter month. After the winter of 2000-2001, some future method would be used.

Option II is a “mandatory capacity assignment” method and should be rejected. Option I is essentially also a mandatory capacity assignment method since it requires customers to pay for the capacity costs even if they do not use it. This option is even less defensible than the other and should also be rejected. It does not even allow the alternate supplier for smaller customers to accept a voluntary capacity assignment and avoid incurring the CAB rate as is proposed for large customers.

Mandatory capacity assignment restricts third party suppliers from using other options to find their own capacity which may be available at lower cost. Competition would see that these lower costs were passed on to customers. Furthermore, a reasonable mechanism for capacity release should be one that advances competition for gas customers by allowing the market to work unencumbered. A voluntary capacity release mechanism would go the farthest to

accomplish this. Mandatory capacity assignment imposes a utility's inefficient cost structure on marketers and interferes with their ability to optimize capacity assets and customer benefits. Since South Jersey cannot justify its mandatory capacity assignment options, the Board should reject them.

South Jersey proposes to establish a regulatory asset charge that it calls tariff Rider “H”, or the Unbundling Transition Charge (“UTC”). This proposed tariff is included as a “placemaker” for the potential recovery of future costs associated with “lost revenues” (unquantified), for any required regulatory assets (unidentified) that arise from these proceedings and for any other costs (also unidentified) associated with unbundling or the transition to competition. *SJ-3*, pp. 5-6. The Competition Act does not contain any provision for charging alleged lost revenues to customers. The Company's proposal, therefore, does not comply with the Competition Act. The Company has made no specific proposal for the costs to be included in this rate recovery mechanism and it should be rejected as unsupported by the evidence in the record.

Additionally, South Jersey proposes to establish a tariff Rider “E” as its Societal Benefits Charge (“SBC”) to recover all manufactured gas plant remediation (“RAC”) costs, demand side management (“DSM”) costs, consumer education costs (when later determined) and “such other expenses [not enumerated] as the Board shall deem appropriate.” South Jersey's RAC and DSM costs are currently not being charged to all the same classes of customers. The utility proposes to establish the SBC so that the RAC and DSM costs are recovered under the new Rider E the same way as they are recovered now. However, South Jersey does not include the costs of existing social programs in the SBC. These SBC proposals are wholly inadequate to meet the

requirements of the Act and should be rejected. The recommendations of the Ratepayer Advocate to limit the SBC to the specifically outlined costs in the Act and to apply the SBC to all customers, among other recommendations below, should be adopted.

South Jersey's proposals for the transition to a fully competitive retail market do not comply with the mandate of the Legislature that full and fair competition will replace the old ratemaking regime. The Board should require that South Jersey implement the proposals contained in this initial brief, supported by the testimonies of the Ratepayer Advocate witnesses, so that South Jersey customers are ready by December 31, 1999 to begin accomplishing the goals set forth in the Competition Act. All of New Jersey, including the southern part of the state which borders Pennsylvania and Delaware, must be open for competition in natural gas for all classes of customers.

## **A. Basic Gas Supply Service (“BGSS”)**

### **1. Nature of BGSS**

South Jersey proposes that its Basic Gas Supply Service (BGSS) operate much like its current LGAC rate mechanism. It would use its gas supply rate schedules contained in Schedule DAK-10 of Exhibit SJ-1 as the BGSS rates for each customer class. *SJ-3*, p. 4. The supply rate tariffs that are subject to the current LGAC would continue to be subject to it under retail competition.

**As discussed more fully in the generic portion of this initial brief, the traditional LGAC mechanism can be an impediment to competition, because over- and under-recoveries distort prices.** The Board therefore should require South Jersey to implement a mechanism that provides for levelized BGSS rates and allows monthly adjustments of BGSS rates to eliminate or minimize over- and under-recoveries by the end of the rate year. *RA-64*, p. 12; T2079:L2 to T2081:L10. As noted, such mechanisms are already in place for the residential customers of PSE&G and the residential and commercial customers of New Jersey Natural. *Id.*, pp. 11-12. This mechanism helps to minimize the problem of over/underrecoveries being carried over from one year to the next and maintains some customer protection against extreme price fluctuations. The Board should also direct South Jersey to engage in hedging practices that would also help to minimize exposure to large price fluctuations. *Id.*, p. 12.

### **2. Single vs. Multiple BGSS Options**

South Jersey does not propose to offer multiple BGSS options to its customers or promote the BGSS as a competitive service. It does not propose a fixed rate option for BGSS. However, there would be two different rate proposals that would differentiate between (1)

customers who, at the start of retail competition, remain BGSS customers and (2) customers who take TPS service and later return to BGSS. This differentiation is discussed in the following section.

### 3. Terms and Conditions of BGSS

South Jersey proposes that commercial and industrial customers begin on a levelized, but not fixed, BGSS rate.<sup>1</sup> The levelized rate would be trued up as the current LGAC is done now. If the commercial and industrial customers leave South Jersey's supply service for a TPS and then return to BGSS, South Jersey proposes that these returning customers be charged rates based on the "then existing market rates" subject to adjustment each month, based on the spot market. *SJ-3, Schedule DAK-1, Proposed tariff page number 70.* Therefore, South Jersey alleges, "if market prices are above embedded gas supply prices, the returning customers will not burden the system." *SJ-1*, p. 17.

Q In fact, Mr. Kindlick, is it true that under South Jersey BGS proposal, customers begin service on a fixed [sic] BGS rate and customers are subject to a monthly price BGS rate only if the customer leaves BGS service for an alternative supplier and then returns to the BGS service, isn't that correct?

A That is correct.

T582:L4-11.

This market-based proposal for returning BGSS customers has the anti-competitive result

---

<sup>1</sup>Although a levelized rate remains the same for a certain period of time, it is not the same as a fixed rate. A levelized rate such as the LGAC is trued up at the end of the period and adjusted to reflect underrecovered or overrecovered costs. The utility is not at risk for cost recovery. A fixed rate also remains the same for a certain period, but is not trued up later for overrecoveries or underrecoveries. There is some risk of not recovering all costs to provide the service for the time period, but also some possibility of recovering and retaining more than the cost of service for that period.

of requiring returning customers to pay prices for BGSS service that are subject to wide variations based on market fluctuations and which could be higher than existing BGSS customers. This risk clearly could deter customers from shopping when they know that trying an alternate supplier could later cost the customer more when he decides to return to BGSS or is involuntarily returned to BGSS through no fault of his own.

The Board should allow only a single BGSS pricing option, which is a monthly pricing mechanism that applies both to customers who start on BGSS, and those who move to a TPS and later return to the utility BGSS, voluntarily or involuntarily. *RA-63*, p. 24; T1941:L8-21.

The current switching fee in South Jersey's tariffs can also discourage customer choice and should be eliminated. Paragraph 10.8 of the General Terms and Conditions of South Jersey's tariffs allows the utility to charge a \$50.00 Transportation Initiation Fee, or switching fee, to all customers except those taking service under the Residential Transportation Clause (RTC), also called Rider "H". The Competition Act recognizes that switching fees are a deterrent to choice, by prohibiting such fees for residential consumers. Switching fees are equally a deterrent for smaller commercial customers. As stated by Mr. LeLash, this fee is:

likely to be a deterrent to choice for many commercial customers, some of which have usage not much higher than a typical residential customer. In order to promote the Act's objective of customer choice for all gas users, switching fees should be eliminated for all commercial customers.

*RA-63*, pp. 25-26. **The Ratepayer Advocate urges the Board to adopt this proposal and direct South Jersey to eliminate switching fees for small commercial customers.**

**B. BGSS Rates/Shopping Credits**

**1. Proposed rate unbundling methodology**

South Jersey claims that its pilot transportation programs are a success due to using “full margin rates” or that “the cost of service component is the same for both sales and transportation customers.” *SJ-3*, p. 9. The utility proposes to maintain full margin rates once full retail competition begins for all customers on January 1, 2000. Mr. Kindlick stated that the utility would recover its full margin as part of the transportation component associated with the BGSS rate. T550:L24 to T551:L3.

Q As a general principle for the development of unbundled rates, South Jersey is a proponent and utilizes a full margin rate methodology. Isn't that correct?

A That's correct.

T549:L16-21.

Q . . . . Do you agree that the BGS rate contains no margin in it?

A That's correct.

Q So the BGS rate is essentially a straight cost pass-thru?

A That's right.

T550:L14-19.

As discussed more fully in the generic portion of this initial brief, the gas utilities including South Jersey have proposed “unbundling” in a manner that is designed not to enhance competition but to preserve their revenues and margins. The retention of the current bundled rate design when full competition begins under South Jersey’s proposal would greatly restrict competition for customers and therefore, customers would not have adequate choices available to

them. The mechanism of a shopping credit set at an appropriate level that induces the customer to shop for an alternate supplier and seek the benefits of lower prices that competition can bring is vital to the success of retail competition in the natural gas industry in New Jersey. Customers need a price to compare against the prices offered by alternate suppliers to see where the best savings are.

**An appropriately developed shopping credit is critical to achieving the Competition Act's goals of greater reliance on competition to deliver more and better customer choices and energy savings. South Jersey's proposal does not move customers closer to these goals and should be rejected.**

As explained in Mr. Miller's generic testimony, the first step in rate unbundling is to identify all gas supply costs that should go into the gas supply rates for Basic Gas Supply Service (and therefore the shopping credit). *RA-72*, p. 19. Mr. Miller has identified \$1.6 million of storage inventory carrying costs that Company witness Heintz concludes should be allocated entirely to gas sales. *RA-73*, p. 21. South Jersey proposes to recover these costs as part of its distribution rates. In order to create a shopping credit which includes all gas supply costs, the \$1.6 million in costs identified by Mr. Miller should be re-allocated to South Jersey's rates for BGS service.<sup>2</sup>

---

<sup>2</sup>For South Jersey, allocation of all its gas supply costs to BGSS rates points to another issue. This may conflict with Section 10.r of the Act because the utility has gas contracts priced above current market conditions. Mr. Miller cautioned that BGSS rates may reflect prices consistent with current market conditions and prices that South Jersey may be paying under contracts entered into ten years ago may not be consistent with current market conditions. T:2838:L12-24. The Ratepayer Advocate is not suggesting any adjustment to reflect this at this time, but recommends that in this proceeding the Board should adopt shopping credits based on current contract prices -- although it may at some future time revisit the shopping credit if these contracts are renegotiated.

**For competition to proceed it will be necessary to establish a shopping credit that is adequate to encourage customers to shop for an alternative gas supplier and will provide savings from current rates. South Jersey’s proposal to leave some supply costs in its distribution rates would not accomplish this and would not enable customer choice and creation of a competitive marketplace. Mr. Miller’s analysis and recommendation corrects this defect in the proposal. A TPS would find it very difficult if not impossible to compete with BGSS rates that are set artificially low in this way.**

South Jersey admits that the BGSS rate will “represent the benchmark against which Consumers [sic] will evaluate competitive bid offerings” and that given this benchmark role, it is “vital that the BGS rate reflect the actual cost of providing BGS service. . .” T549:L2-11. There is a need to reflect in the shopping credit the full gas supply costs including overheads and profit margins, so that the benefits the Legislature expects competition to bring to New Jersey’s economy and residents can occur.

The Ratepayer Advocate presented two witnesses who recommended allocation of costs beyond these items to the shopping credit in order to set an adequate credit. Ratepayer Advocate witness Mr. Rohrbach recognized that even if gas supply costs embedded in base rates are re-allocated to gas supply rates, the resulting BGSS rates may not encourage a competitive market in the year 2000. RA-78, p. 4. South Jersey’s current supply rates include credits for most of the margin revenues from capacity releases and off-system sales of excess capacity. These margin revenues are available to South Jersey largely because of its control of capacity obtained for its supply customers and its monopoly distribution assets. South Jersey retains part of these margin revenues as an incentive to maximize the value of these transactions.

In order to help create a more viable shopping credit, Mr. Rohrbach advocated using some of these incentive revenues in the shopping credit and recommended including 15% of South Jersey's margins on off-system sales and capacity releases (after deduction of \$6.5 million in revenues used to fund base rate revenue requirements) in the BGSS rates. *RA-77*, p. 4 and *RA-78*, p. 23. Mr. Rohrbach stressed the importance of creating a workable shopping credit to bring competition into the New Jersey natural gas marketplace. If the shopping credit is insufficient to give customers incentive to shop, then "the intent of the Competition Act is thwarted and consumers do not receive the benefits of a competitive marketplace." *RA-77*, p. 5.<sup>3</sup> **For that reason, the Ratepayer Advocate recommends a shopping credit that includes all gas supply costs and this additional incentive for the customer to shop.**

Ratepayer Advocate witness Mr. Rothschild recommended giving the gas utilities the option of transferring the revenue requirement associated with 1% (or 100 basis points) of return on equity from the utilities' distribution rates to the commodity rates for gas. *RA-57*, p. 5. As is more fully discussed in the generic portion of this initial brief, this option would be done to stimulate competition and help to afford customers the advantages of this competition. Mr. Rothschild calculated that this option would have a revenue impact of \$2.86 million on South Jersey. *RA-62*, p. 1.

The Ratepayer Advocate recommends that the Board adopt one of these two options for creation of a shopping credit for residential customers and small commercial customers as well. As explained in the Ratepayer Advocate's generic arguments, South Jersey's final shopping

---

<sup>3</sup>Mr. Rohrbach calculated a shopping credit for South Jersey's residential customers of 46.31 cents per therm without taxes. *RA-78*, p. 8. The final shopping credit for these customers is subject to change and could be updated for later data as noted by Mr. Rohrbach. *RA-78*, p. 14.

credit should be based on the most current available data.

## **2. Lost Revenue Recovery Proposals**

South Jersey is not currently seeking any rate recovery concerning alleged “lost revenues.” As stated in the generic section of this initial brief, the gas utilities including South Jersey claim the need for “full margin” rates which would be rates designed so that South Jersey could recover through its distribution charges all costs currently embedded in its base rates. If any costs are allocated from distribution rates into supply rates, lost revenues would allegedly occur as customers migrate from supply rates to distribution-only rates.

However, South Jersey has proposed a placeholder for future lost revenue rate recovery in its proposed new Rider “H”, the Unbundling Transition Charge (UTC) despite the fact that it does not seek any specific amount of lost revenues and has alleged none. *SJ-3*, pp. 5-6. Two of the three sections of the proposed Rider “H” include the provision that the UTC will be established to recover (1) lost revenues, if any, associated with rate unbundling proposals and (2) a regulatory asset charge<sup>4</sup>, if applicable. The third section of Rider H is discussed in part D of this initial brief below.

As noted in the generic section of this initial brief, the gas utilities’ focus on revenue preservation through rate recovery mechanisms such as the proposed UTC regardless of its harmful effects on competition is inconsistent with the objectives of the Act -- reliance on

---

<sup>4</sup>Although South Jersey states that paragraph (2) of the proposed UTC would apply to “the recovery of any required regulatory assets which may become necessary as a result of this proceeding”, it is unclear what the utility is proposing here. Mr. Kindlick stated that the Company was only referring to the Board’s March 17, 1999 Order Establishing Procedures in which it included “a proposed regulatory asset charge, if applicable” in the list of items to be in the utilities’ compliance filings. T654:L10 to T655:L2. The Board should reject this tariff proposal since it is not supported by any evidence.

competition rather than regulation. *Competition Act*, § 2(b). It must be noted that nowhere in the Competition Act does the Legislature advocate any provisions guaranteeing “lost revenue.” With no foundation for lost revenue recovery in the statute that lays out the framework for the competitive natural gas supply marketplace in New Jersey, the Company’s proposal should be denied.

Although the Board’s March 17, 1999 Order Establishing Procedures, Docket No. GX99030121, allowed the utilities to address lost revenues in their unbundling filings, the Board also did not **guarantee** that lost revenues could be charged to customers. Further, the legislation does not create a regulatory loophole for lost revenues in the future. This proposal is far too speculative to be countenanced and should be denied.

When other businesses lose customers, they have to find ways to cut costs or add new revenue sources or new customers. South Jersey’s proposals for lost revenue recovery would put it in a **better** position than before by guaranteeing these revenues without a comprehensive review of whether these charges are justified by overall revenue deficiencies or any review of the amounts and prudence of its costs. If South Jersey can prove some level of lost revenues, it always has the option to file a base rate case to recover any revenue deficiencies. That is the longstanding mechanism for relief concerning alleged revenue insufficiencies, not newly minted ones such as the proposed UTC. Instead of reducing energy costs as contemplated by section 2(a) of the Act, the utility proposals would create a rate increase.

Further, South Jersey has not shown that any revenue loss will occur. South Jersey has asserted only a “possible” revenue erosion problem if the Board should not use full margin rates when unbundling rates. *SJ-3*, pp. 9-11. If the \$1.6 million in storage inventory costs noted above

are recovered in gas supply rates instead of distribution rates, this rate design will not be the full margin rates recommended by Mr. Kindlick. *SJ-3*, p. 9. However, contrary to South Jersey's unfounded allegations, this would not create the revenue erosion problem feared by South Jersey. South Jersey's mere allegation of possible lost revenues does not hide the fact that it has provided no proof that it will incur any lost revenues.

Also, there is reason to believe that even as the utility customers migrate to distribution-only tariffs, South Jersey will not suffer any lost revenues. As more customers select a TPS, South Jersey will have less need for storage withdrawals as a baseload component of gas supply. Therefore, South Jersey should be able to reduce its average storage inventory balances and its inventory carrying costs. If South Jersey has correctly identified the storage inventory applicable to balancing for distribution customers, then the inventories and carrying costs applicable to gas supply will decline directly in proportion to the decrease in gas sales, so there will be no problem of revenue erosion. *RA-73*, pp. 21-22.

South Jersey's argument that the prior stipulation in its last base rate case guarantees recovery of these revenues is unfounded. Moreover, any prior policies that could impede the economic benefits to New Jersey from competition and increased customer choice should be revisited and modified to stimulate competition for customers and encourage innovation and new technologies. The Board can also review its prior Orders and "extend, revoke or modify" them. *N.J.S.A. 48:2-40*. Accordingly, South Jersey has not supported its proposal for the proposed UTC, and the Board should reject this proposal.

## **C. Unbundling of Gas Supply Services**

### **1. Gas Supply Services Unbundled**

As stated above in the generic section of this initial brief, gas supply service consists of several services such as gas commodity, upstream transportation over interstate pipelines, storage, peak shaving and balancing. The Board has stated its intention to consider setting unbundled rates for these potentially competitive services. Order Establishing Procedures at 2. As stated by Mr. Miller, the Board should require South Jersey and the other gas utilities at a minimum to offer suppliers the option of providing a monthly requirements service when full retail competition begins on January 1, 2000 and daily requirements service by the winter of 2000-2001. *RA-72*, p. 12.

The distribution services that South Jersey offers to large customers, with daily balancing pursuant to Rider "I", meet the unbundling objectives set out by the Ratepayer Advocate. The unbundled services offered for residential and general service customers meet the minimum objective of a monthly requirements service to be made available by January 1, 2000. However, these services do not meet the objective of complete unbundling of all gas supply services and their separation from distribution service and thus does not fully open balancing to competition. *RA-73*, 10-11.

South Jersey should offer a daily requirements service (DRS) as an additional option to the monthly requirements service it now offers as the only way distribution service can be provided to residential and small commercial customers. A daily requirements service is one in which each aggregator or marketer serving residential or small commercial customers is required to deliver each day the quantity of gas the customers are expected to burn that day, based on the

daily weather forecast one day in advance. With this type of daily delivery requirement, aggregators and marketers would provide most of the daily balancing services now performed by South Jersey under its monthly requirements service. South Jersey would continue to be responsible for balancing any unanticipated swings in daily loads, which occur generally because the actual weather does not conform exactly to the weather forecast one day in advance. *RA-73*, p. 11. **In accordance with Mr. Miller's recommendations, the Board should require South Jersey to file a proposal for a daily requirements service by March 1, 2000, along with a cost of service study. The required initial implementation date should be October 1, 2000, in time for the 2000-2001 winter heating season.**

## **2. Format of Tariffs**

**Section 10(r) of the Competition Act requires separate rates to be established for gas supply service and gas distribution service, but South Jersey's proposed tariffs do not comply with this requirement.** South Jersey's proposed tariffs for BGSS customers do not set forth separate unbundled gas distribution and gas supply rates. *RA-73*, pp. 22-23. Under retail competition, South Jersey proposes that its current firm gas sales tariffs — RSG for residential customers, GSG for general service customers, and LVS for large industrial customers — remain as completely **bundled** sales rates. *SJ-3, Schedule DAK-1*. The tariffs list various bundled prices that include both gas supply and gas distribution service. This tariff structure makes it difficult for customers to shop. As stated in Mr. Miller's testimony:

South Jersey Gas, for example, does offer all of its customers a choice between gas sales and gas transportation, but the gas sales service is still presented in the tariff as a bundled service. A customer must therefore switch his gas distribution service from one rate schedule to another to stop purchasing South Jersey's gas sales service, and some relatively

complicated calculations are needed to determine the price South Jersey is charging for its gas supply service. It is important that the unbundled tariffs be clear and understandable to the consumer, for otherwise their very complexity may operate as a barrier to competition.

*RA-72*, p. 9.

**In order to comply with the Act's requirement of unbundled rates, South Jersey's tariff for residential customers should clearly set forth a separate charge for gas distribution service and a separate charge for gas supply service. T2688:L5-9. Anyone reading the tariff should be able to determine the shopping credit by simply looking at the tariff.**

Similarly, the existing general service sales tariff (GSG) and general service firm transportation tariff (GSG-FT) should be combined into a single tariff GSG along the same lines — with a clearly stated separate charge for gas distribution service and a separate charge for a gas supply service that each commercial customer may elect or decline. It would also be appropriate to combine the present LVS and LVS-FT rates for large industrial customers in the same way.

*RA-73*, p. 7.

The above format changes will facilitate customers' ability to do comparison shopping for gas supply service between South Jersey's rates and those of a TPS. Mr. Miller's detailed recommendations for tariff format changes are in his Table REM-SJG-1, attached to his prefiled testimony. *RA-73*. If the customers cannot compare rates, there will be no opportunity for them to properly shop.

For small customers, South Jersey should offer balancing services, i.e., its DRS service, to marketers as a wholesale service tariff, rather than directly to small customers. Small

customers do not have the ability to arrange with either South Jersey or a different vendor for their own balancing services which are used to match the amount of gas delivered to the South Jersey system for that customer with the customer's gas usage. For that reason, it makes more sense to offer this service to the customer's TPS who would be more experienced in this function. The TPS would be able to decide whether to make use of South Jersey's balancing service or whether it could obtain that service elsewhere on more favorable terms. Those more favorable terms, which could include a lesser cost for the service, could be passed on to the consumer for greater savings. As stated by Mr. Miller:

Giving suppliers this option will open additional aspects of gas supply service to competition, which should lead to greater efficiency in the provision of gas supply service and ultimately result in lower costs to consumers.

Aggregators and marketers should have an opportunity to compete against South Jersey in providing the balancing services that are at present bundled with distribution in South Jersey's DCQ service offerings, which is why South Jersey's distribution service should be unbundled fully from its gas supply offerings.

*RA-73*, p. 13. For the reasons above, the Board should require South Jersey to offer to aggregators and marketers of residential and small commercial customers a daily requirements service as an additional option in addition to the monthly requirements service now offered.

## **D. Capacity Assignment**

### **1. Voluntary/mandatory assignment**

As stated more fully in the generic section of this initial brief, no utilities have excess capacity due to customers migrating to distribution-only tariffs. They should offer this capacity on a voluntary non-discriminatory basis to the TPSs before offering it to other parties. However, they should not be permitted to **require** suppliers to take assignment, as this would impede competition.

The incumbent gas utilities including South Jersey control a significant portion of the interstate pipeline transportation and storage resources serving New Jersey. *RA-67*, p. 7. The TPSs need access to these resources to help provide a full range of service for their customers. The resources should become available as more customers choose a TPS for gas supply, and the utilities have less need to maintain them. *RA-67*, p. 6. As the interstate pipeline transportation and storage resources become more available, they should be offered to third-party suppliers on a **voluntary** basis before they are offered to anyone else. *RA-67*, pp. 7-8. In order to provide customers with the benefits of the capacity on a non-discriminatory basis, the capacity should be offered to third party suppliers at the utility's weighted average cost of capacity. *RA-67*, p. 8. South Jersey should be directed to comply with this recommendation. Further, capacity should be offered to South Jersey's marketing affiliate only on a non-discriminatory basis, to the extent it provides gas supply service to the utility's customers. *RA-67*, p. 8.

The Board should also recognize that South Jersey's CAB rate proposal avoids the more important issue that there is no real need for South Jersey to maintain this back-up capacity for TPS customers in the first place. The TPS will provide its own capacity for its own customers

and include those costs in its rates to those customers. To allow South Jersey to maintain capacity for 100% of its system load including the TPS customers and then charge those customers for this capacity only requires them to pay twice for the capacity to serve them. The customers would pay once to the TPS for its capacity and pay again to South Jersey to maintain back-up capacity that ultimately is not used for these customers.

As explained in the generic portion of this brief, mandatory capacity assignment impedes competition, because it prevents competing suppliers from finding more economical capacity arrangements. South Jersey is proposing a form of mandatory capacity assignment.

For large use customers with telemetering, South Jersey proposes that distribution customers or the marketers serving them must either take assignment of capacity or else pay South Jersey to maintain sufficient capacity to serve the customers' loads in case the third party supplies are insufficient. *RA-73*, p. 15. The customers would pay South Jersey for maintaining this backup capacity through a proposed Capacity Allocation Back-up (“CAB”) rate. South Jersey’s ostensible reason is “reliability.”

South Jersey’s proposal for small customers which includes all residential customers and all other non-telemetered customers is even more restrictive. Small customers without telemetering would be required to pay for backup capacity with no option to avoid paying the CAB charge by accepting capacity assignment from South Jersey. Mr. Kindlick asserts that South Jersey would like to create this option for small customers, but has not decided how to do so yet. *T595:L5 -20*. For small customers, telemetering is economically prohibitive at this time due to the cost of such meters.

South Jersey’s proposals would only serve to impede competition for its supply

customers and does not comply with the objectives contained in the Competition Act, to lower the cost of energy, improve the quality and choices of service and to place greater reliance on competitive markets to deliver these benefits to all New Jersey consumers. *Act*, § 2(a). By requiring a TPS to rely on South Jersey's capacity assignment or to pay for its back-up capacity, South Jersey would hamper a TPS from being able to arrange for its own capacity to serve its customers on more favorable terms. A TPS who was required to pay for South Jersey's capacity would have no incentive to seek out better arrangements since it would already be required to pay the South Jersey charges for its capacity. The TPS's customers would then be cut off from these more favorable arrangements and the costs savings from them. With no ability to compete on the basis of price for this capacity, the TPS would be severely hindered in its ability to attract customers.

South Jersey's purported justification for its proposal concerning the payment for back-up capacity is contrary to the fundamental objectives of the Act. South Jersey alleges that, as supplier of last resort, it must maintain its on-system peak shaving resources plus its portfolio of pipeline services in amounts sufficient to serve the **entire** firm design day load of **all** of its customers, including the distribution-only customers who take supply from a TPS, as well as South Jersey's sales customers. South Jersey's position is essentially that it cannot rely on **any** third-party gas supplies for its distribution customers, not even when the TPSs are contractually obligated to deliver those supplies and subject to large penalties for failing to do so. *RA-73*, pp. 15-16.

The Board should reject this proposal as violative of the Competition Act's policy to rely on competitive market forces to provide lower cost gas supply to customers who choose a TPS.

As stated by Mr. Miller:

Under competition, we rely on market forces to ensure that supplies of any product reach the places where they are needed, when they are needed, and in the necessary quantities. The appropriate way to harness market forces to ensure the reliability of supply is with penalties against third party suppliers that fail to deliver the supplies for which they are obligated. Competition cannot provide lower gas supply costs for consumers if South Jersey stockpiles enough pipeline capacity to serve the same distribution customer loads that third-party suppliers are also serving, and if customers then have to pay for this duplication of pipeline capacity.

*RA-73*, pp. 16-17. South Jersey has not proved that third-party suppliers will not be able to obtain the necessary gas supply to serve their customers and that therefore, South Jersey must maintain this large amount of back-up capacity.<sup>5</sup>

Penalties for failure to deliver sufficient gas would be an effective tool to assure reliability. T2869:L19 to T2870:L21. South Jersey's alleged reliability concerns could also be met in a much less restrictive way than it proposes by allowing the TPS to obtain **comparable capacity** to serve its customers' needs. Although the utility also alleges that there is no alternate capacity available for a TPS to use on South Jersey's system, this allegation was supported by no facts and should be ignored. South Jersey has not shown that it holds all the available capacity on the Columbia system to the exclusion of a TPS. Also, South Jersey has not proved that there is no capacity available on the Transco system serving the South Jersey territory or that South Jersey owns all the available Transco capacity to the exclusion of a TPS.

Further, even if South Jersey can prove that it presently owns all the available capacity on

---

<sup>5</sup>The Board should note that South Jersey's proposals on maintaining all this alleged back-up capacity may be related more to increasing its excess supplies, and thereby increasing its revenues from margin sharing when the excess supplies are sold, than in providing a necessary back-up service.

the Transco and Columbia systems, there is no reason why a TPS should be precluded from seeking alternate **comparable capacity** arrangements or that South Jersey must maintain these capacity entitlements. Mr. Miller testified that:

South Jersey could work out some arrangement whereby the capacity was held by marketers under a comparable capacity provision or something like that or that South Jersey itself didn't have to maintain it.

T2739:L11-15.

Such capacity should become available for a TPS as South Jersey's customer choice program expands. As was explained by Ratepayer Advocate witnesses Galligan and Mierzwa:

the capacity that you used to need for sales service is no longer required for sales service.

Therefore, it becomes a source of supply for third-party suppliers to acquire capacity to serve customers behind your city gate.

T2220L10-18.

Under a transportation program where customers convert from sales service to transportation service, third-party suppliers would have a ready source of capacity.

T2238:L18-21. Because South Jersey has not shown any excess capacity due to customers shopping for an alternate supplier and because any alleged reliability concerns could be met in a less restrictive way such as allowing comparable capacity arrangements, South Jersey's mandatory capacity assignment proposals are not justified and should be rejected. TPSs should be permitted to show that they have comparable capacity, even if it is not obtained directly from South Jersey.

South Jersey's proposal to charge smaller customers its "CAB" rate **even if their suppliers take an assignment of capacity** from the Company is particularly indefensible. As

noted, large customers with telemetering can at least avoid paying for back-up capacity through the CAB rate if they accept capacity assignment. South Jersey apparently believes that allowing this assignment option (and thereby avoiding the CAB rate) provides reasonable assurance that the TPS for a large customer will deliver sufficient gas for reliability concerns.

There is no reason why TPSs serving smaller customers should not be able to reliably meet their delivery obligations using assigned capacity. South Jersey's asserted justification for denying this option to smaller customers is that telemetering is required to determine how much gas they use on any given day. However, for these customers, unlike larger customers, telemetering is **irrelevant** to their suppliers' delivery obligations.

Large customers match deliveries to actual use in the current month, so they need telemetering to tell whether they have met their delivery obligations. *RA-72*, pp. 10-11. Delivery obligations for smaller customers, i.e., residential and small commercial customers, is **not based on actual current usage in the current month**. The delivery requirement or daily contract quantity (DCQ) for these smaller customers is calculated each year by South Jersey by taking the customer's weather-normalized usage of the **past** twelve months and dividing it by the number of days in each month.<sup>6</sup> *Second Revised Tariff Sheet No. 65I ("Rider J")*, the balancing clause for *smaller customers*. Thus, the delivery requirement is not matched to the individual customer's usage in the current period, so there is no need for that customer to be telemetered to determine his usage in real time.

If the TPS serving these small customers meets its daily contract quantity delivery

---

<sup>6</sup>For residential customers on the transportation tariff, the DCQ is calculated on a Company system-wide, weather-normalized basis. Paragraph 14, Rider H.

requirement, there is no need for these customers to go to the expense of telemetering or for South Jersey to deny these small customers the right to avoid paying the CAB rate. T2867:L14 to T2868:L11. As Mr. Miller stated:

A third-party supplier serving a small customer has a delivery obligation equal to the daily contract quantity for the month and that daily contract quantity is the same every day of the month, it has nothing to do with how much gas the customer may or may not consume on any particular day and therefore, there's absolutely no point in telemetering the customer in order to relieve the supplier of the CAB charge, so long as he delivers the daily contract quantity set by South Jersey.

T2868:L12-22.

South Jersey witness Mr. Kindlick also testified that the utility will know whether the TPS delivered the agreed-upon amount of gas to the citygate even without the TPS customers having telemetering. T598:L6-13.

Again, the South Jersey proposal places barriers to competition in the marketplace and retains for the Company the monopoly structure of years gone by. For these reasons, the Company's proposal should be rejected.

## **2. Other issues**

A related issue is South Jersey's placeholder rate mechanism in its proposed Rider H, UTC rate, for alleged stranded gas supply portfolio costs which become "stranded" when customers migrate from South Jersey's supply service to distribution-only service. Section (3) of Rider H includes recovery of:

(3) all costs (i) which are associated with the Company's February 9, 1999 portfolio of gas supply and pipeline capacity; and (ii) which were incurred by the Company to serve customers who were sales service customers of the Company, and who have switched to transportation service subsequent to February 9, 1999."

*SJ-3, Schedule DAK-1, p. 87.*

The Company's proposed definition of these stranded costs in section (3) of the Rider H proposed tariff is far too broad and should be deleted. Also, the Competition Act contemplates mitigation of any stranded costs. If in the future, South Jersey can verify some stranded supply costs, it must also identify how it has taken all reasonable steps to mitigate the costs and only then consider some mechanisms to address this concern. Some possible measures would be mandatory capacity assignment, utility sharing of these costs and other recovery mechanisms. *RA-73, pp. 19-20.* It should also comport with the Ratepayer Advocate's generic policy recommendation that no stranded cost recovery be allowed until the utility proves it has actual stranded costs and has taken all possible steps to mitigate potential stranded costs.

As discussed more fully in the generic section of this initial brief, before the next winter season the Board should also review the margin sharing mechanisms of the gas utilities including South Jersey, since these mechanisms are antithetical to competition. As long as South Jersey retains part of these margins for transactions involving unneeded capacity, the utility will have the incentive to retain unneeded capacity rather than making it available to other market participants.

## **E. Societal Benefits Charge**

### **1. Items recovered through SBC**

South Jersey's proposed SBC is in Rider "E". It includes the charges for its gas plant remediation (RAC) and demand side management (DSM) program costs, and a placeholder for consumer education costs. *SJ-3*, p. 4.

South Jersey did not identify any social programs that should be included in the SBC rates. In accordance with the Ratepayer Advocate's generic recommendations and Section 12(a)(1) of the Competition Act, South Jersey should be required to identify social program costs to go into the SBC, including uncollectibles attributable to social programs for disadvantaged customers. *RA-63*, pp. 30, 34.

Mr. Kindlick claims South Jersey cannot identify all of these uncollectibles related to social programs. T616:L19 to T617:L6. South Jersey does, however, maintain considerable data concerning its disadvantaged customers. For instance, South Jersey keeps track of the customers who avail themselves of the following programs:

Low Income Home Energy Assistance Program (LIHEAP) -- see *RA-16, para. a, RA-14* and *RA-12 attachment*

Lifeline Credit Program -- see *RA-16, para. b* and *RA-12 attachment*

Gatekeeper Program (refers customers to relevant county agency) -- see *RA-16, para. c* and *RA-12*

Winter service shutoff moratorium -- see *RA-17, para. a* and *RA-12*

Since at least these customers are already identified on their accounts records, South Jersey should be able to do a more thorough job of identifying the relevant customers with some assistance from the proper State agencies. Mr. Kindlick acknowledged that South Jersey may be

able to do so with State assistance.

I imagine it is possible, sure, there is a lot of State agencies with a lot of good information.

T618:L11-13.

The Competition Act allows consumer education costs, “as determined by the board”, to be included in the SBC. *Competition Act*, § 12(a)(5). South Jersey has proposed a placeholder in the SBC for consumer education costs, but has provided no identification or quantification of the costs. South Jersey has already received charges from the Board’s consultant for initial work on the consumer education program. *SJ-3*, p. 5. Under an Order issued by the Board on June 25, 1999, South Jersey and the other gas and electric utilities have been allowed to begin deferred accounting of consumer education costs. However, South Jersey has not quantified the specific amounts for consumer education costs. T650:L10-19. South Jersey should be required to itemize all of these costs at the time that it proposes to charge them to customers in the SBC.

South Jersey has also proposed a placeholder in the SBC for other unidentified expenses. *RA-73*, p. 26. If it means to include lost revenues or stranded costs here at some future date, the Board should reject that proposal. The Ratepayer Advocate’s position on lost revenues and stranded costs are outlined fully in earlier sections of this initial brief. South Jersey has not yet identified what these expenses may be or what their amounts might be. **Further, as explained in the generic section of this initial brief above, the Competition Act permits only four specifically listed costs to be included in the SBC, and does not include any provision in the SBC for a “catchall category” as proposed by South Jersey. The Board should reject this proposal to include such unidentified costs as contrary to the Competition Act.**

## **2. Proposed two-way interest.**

This issue involves whether any interest should be accrued on the balance of underrecovered costs in the SBC. The issue of what interest rate to apply to the SBC's components is discussed in the following section. South Jersey has not made a specific proposal to allow any interest to be calculated on underrecovered balances in its SBC.

As stated in the generic section of this initial brief, the Board should address the issue of "two-way interest" on a component-by component basis. "One-way" interest should be preserved at least for those components on which South Jersey is not now permitted to recover interest, including the manufactured gas plant (MGP) remediation costs component as it applies to South Jersey. *RA-63*, p. 33; T2012:L10-15; T2181:L24 to T2184:L10. Section 12 (a)(4) of the Competition Act specifically provides that MGP remediation costs "shall be determined initially in a manner consistent with the mechanisms in the remediation adjustment clauses [RAC] for the electric public utility and gas public utility adopted by the board ...." Accordingly, the Board should, at a minimum, provide that South Jersey should not receive interest on unrecovered MGP remediation costs in this component of the SBC. *RA-63*, p. 33; T2185:L17 to T2186:L18.

## **3. Interest rate.**

South Jersey proposes that the SBC contain its charges for demand side management (DSM) programs and the costs of remediation of manufactured gas plant sites. As stated above, the Ratepayer Advocate urges the Board to continue its current policy of not allowing South Jersey to calculate interest at any rate on underrecovered RAC costs. The DSM costs are recovered through the DSM Adjustment Clause (DSMAC) tariff and interest on these costs is

calculated at the utility's overall allowed rate of return. South Jersey proposes that the DSMAC should continue as is, presumably with the same interest rate.

To the extent that interest is allowed on any of the SBC's components, the interest rate allowed should only be at the short- or intermediate-term debt rate. In the electric restructuring proceedings, the Board has issued orders providing that interest on all SBC components will be at the 7-year treasury rate, plus 60 basis points. T2183:L17-21; T2184:L11-17. Consistent with the electric restructuring orders, to the extent two-way interest is allowed on the SBC components for the gas utilities, this should be at a short or intermediate-term debt rate, rather than the utilities' authorized rates of return.

#### **4. Deferred accounting**

South Jersey has not specifically sought deferred accounting treatment for anything other than consumer education costs, but RAC costs and DSMAC costs now are subject to deferred accounting. The Board has allowed deferred accounting for consumer education costs. As explained in the generic section of this brief above, South Jersey should not begin deferred accounting for any other items without a petition to the Board on notice to the Ratepayer Advocate and specific Board approval of that request.

#### **5. Mechanics of SBC (establishment and true-up)**

South Jersey proposes to continue the RAC and DSMAC rate treatment as is done now. *SJ-3*. South Jersey proposes to reset the SBC by making a rate filing in July of each year. The Company has not stated whether there would be a revenue reconciliation as part of the SBC procedure. As recommended by Mr. LeLash, since the SBC will contain the costs of the current RAC and DSMAC which are now reviewed along with the LGAC, the SBC filing and review

should be done along with the annual procurement review. *RA-63*, pp. 33, 35. Furthermore, the review should include a reconciliation of all the SBC rate components. *Id.*

## **6. Applicability of SBC.**

Section 12(a) of the Competition Act states that the SBC shall be collected as a charge on all gas customers. Mr. Miller testified that South Jersey's proposal to develop its SBC rates from the existing RAC and DSMAC charges appears to be inconsistent with this requirement, since it would continue the existing exemptions from these charges for customers on special rates. *RA-73*, p. 25. Mr. Miller also noted that when the RAC and DSM costs are placed in the SBC, they should be recovered uniformly from all customer classes. *Id.*

South Jersey witness Mr. Kindlick confirmed that under South Jersey's proposal not all customer classes would pay the SBC. He acknowledged that the YLS and SLS tariffs do not currently pay the RAC costs. T602:L19-24. He also admitted that the DSMAC costs do not now apply to the YLS, SLS, ITS, IGS, LMS-GS and LMS-LV rate schedules. T602:25 to T603:11. South Jersey proposes to continue this rate treatment when the SBC is implemented and exempt these rate schedules from paying the respective portion for these costs that would be in the SBC. *SJ-3*, pp. 4-5. South Jersey's proposed approach violates the Competition Act requirement to apply the SBC to **all customers** as a nonbypassable charge and the Board should reject the utility's proposal to continue the existing exemptions and special rates. *Competition Act*, § 12(a).

## **F. Customer Account Services**

### **1. Required cost data**

South Jersey has not submitted complete unbundled cost data for metering, billing and other customer account services. Metering, billing and other customer account services are potentially competitive services. As stated in the generic section of this initial brief, unbundling these services and opening them to competition from other service providers could greatly expand customer choice and encourage technical innovation that could reduce consumers' costs and improve service. Other states such as New York, Pennsylvania, Maine and California have endorsed open competition for customer account services. Furthermore, the Competition Act recognizes the potential benefits of this competition by requiring the Board to investigate whether there should be alternative suppliers for some or all customer account services.

*Competition Act*, § 6(b). The June 25, 1999 Order of Clarification makes clear the Board's intention to unbundle the costs for customer account services in this proceeding. The Board stated:

it was and is the Board's intent to utilize this proceeding to fully examine unbundled rates for transportation service, gas sales service and all services, such as balancing services and customer account services, that have the potential to be competitively provided. . . .

We do believe it appropriate in this proceeding to examine the issues addressed hereinabove with respect to the proper apportionment and recovery of costs between transportation charges, sales rates and other competitive or potentially competitive services. . . .

Further, in the interest of administrative economy, the Board deems it appropriate to direct at this time that a record be developed and that there be a full examination of the cost of all competitive and potentially competitive customer account services in order to avoid the necessity of having to engage in further rate unbundling proceedings in the future.

Order of Clarification, pp. 3-4.

South Jersey has submitted avoided cost data, but has not presented a study of its average embedded or fully allocated costs of metering, billing and other customer account services. As Mr. Miller explained in his generic surrebuttal testimony, both embedded and avoided cost information will be needed for the Board to decide which customer account services to unbundle and what rates should be charged for these services. *RA-75*, p. 5. To obtain for customers the potential benefits of opening these services to competition, South Jersey should be required to submit the necessary information promptly, to avoid any delay in the Board's final decision on these services. **Therefore, the Board should require South Jersey to (1) provide a complete average embedded or total cost study by March 1, 2000 and (2) develop credits and charges associated with the three billing options presently contemplated which are a single bill issued by the utility, separate billing by the utility and the supplier, and a single bill issued by the supplier.** *RA-73*, p. 14; *RA-72*, p. 20 and *RA-75*, p. 4.

## **G. Other Recommendations**

### **1. Aggregation data**

The Ratepayer Advocate is concerned that residential and small commercial customers may not reap the benefits from competition because they do not use enough gas to attract a TPS. Small customers could benefit by aggregating their loads to make them more attractive to energy suppliers. Under the Competition Act, municipalities or counties can combine their energy needs with those of business and residential customers, and contract for gas and/or electric supply service. The Board should direct South Jersey to provide certain information outlined in the generic section of this brief to assist municipal and county government efforts to aggregate their constituents.

### **2. Universal service fund proposals**

The Ratepayer Advocate believes that it is essential to have universal service programs in place as soon as possible as a safety net for all low income customers in a competitive marketplace. The funding for the existing programs and any new programs must be assured and continuing with no interruption from the current ratemaking regime. The Competition Act establishes the Universal Service Fund (USF) as a “nonlapsing fund” to provide for social programs and for collection of these funds from utility rates for the benefit of disadvantaged customers. *Competition Act*, § 12(b). The content and financing of the USF should be defined within the same timeframe as the other rate unbundling issues. *RA-63*, p. 37. Accordingly, South Jersey should be required to submit its proposal for the USF. *RA-73*, p. 26. This proposal should include the programs to be contained in the USF, their costs and the funding proposals to pay for the programs.

### 3. Purchase of receivables

South Jersey seems amenable to the idea of the utility purchasing the TPS' receivables. South Jersey witness Mr. Kindlick believes this could alleviate a TPS's concerns about serving low income customers and could help increase the number of transportation customers at all income levels. *SJ-5*, pp. 7-8. The Ratepayer Advocate believes this is an issue worth pursuing. As explained by a Ratepayer Advocate witness, Mr. LeLash agrees that the utility purchase of receivables "allows the TPSs to pursue customers without regard to their credit standing or their previous payment history." *RA-64*, p. 8.

However, the Board should rule that, if the gas utility purchases the TPS receivables, under no circumstances could the utility shut off, or threaten to shut off, the services of a customer for nonpayment of the TPS receivables portion of the customer's bill. *Id.*, T1939:L2-7. The Board's current regulations forbid service shutoffs for nonpayment of charges not related to the provision of monopoly commodity or distribution services. N.J.A.C. 14:3-3.6(a)(3)(i) provides that:

service shall not be discontinued for nonpayment of repair charges, merchandise charges, installation of conservation measures and other non-tariffed contracted service charges between the customer and the utility, nor shall notice threatening such discontinuance be given;

In a similar vein, the Board should forbid service shutoffs for nonpayment of TPS charges since they are not based on provision of a monopoly utility service. If necessary, the above regulation should be amended to reflect this policy.

South Jersey appears to disagree with this important customer protection. Indeed, when asked about this issue, Mr. Kindlick testified to the following:

Q Do you agree that it would be necessary for South Jersey Gas to separately track charges owed to South Jersey Gas for regulated services and charges owed to a third-party supplier so that South Jersey Gas can **avoid the issuance of disconnection notice to a customer that includes an amount overdue for third-party supplier charges?**

A Yes, I believe that would have to be in place.

Q Would your position on this matter change if South Jersey Gas buys the receivables of the third-party supplier?

A I believe it would. It then becomes a utility service, I think.

T629:L2-16 (Emphasis added). Purchase of the receivable does not turn the customer from a TPS customer into a BGSS customer for whom South Jersey could terminate service for nonpayment of the gas supply portion of the bill. The Board should clarify and state with no uncertainty that its policy forbids service termination for nonpayment of the TPS receivable purchased by the utility.

## CONCLUSIONS

For all the foregoing reasons, the Ratepayer Advocate respectfully requests that the Board adopt the recommendations contained in this initial brief and summarized below:

1. South Jersey should be required to offer only one BGSS pricing mechanism, a levelized rate with monthly adjustments allowed to eliminate or reduce overrecoveries and underrecoveries. This pricing mechanism should be applied to all customers on BGSS service, including those who migrate to a TPS supply service and then return to BGSS for any reason. South Jersey should also be required to engage in hedging practices to help minimize the overrecoveries and underrecoveries.
2. South Jersey's proposal to charge small commercial customers a \$50 switching fee is an anti-competitive barrier to competition and should also be rejected.
3. The concept of shopping credits is the method chosen by the Legislature and the Board to encourage competition for the electric industry and should be adopted for the gas industry as well. The Board should adopt the concept of gas shopping credits as set forth herein and calculate the appropriate credits to be applied using the most recent data available from South Jersey.
4. South Jersey's proposed Rider H or UTC rate for recovery of lost revenues should be denied in this proceeding and the utility should petition the Board for a base rate case proceeding if it believes that revenues are insufficient. The proposal for UTC recovery of regulatory assets is also unsupported and should be rejected.
5. South Jersey should be required to offer a daily requirements service (DRS) for gas deliveries as an additional option to the monthly requirements service by a TPS for small customers including residential and small commercial customers. South Jersey should file its DRS proposal with a cost of service study by March 1, 2000 to be ready for implementation by October 1, 2000, in time for the 2000-2001 winter heating season.
6. South Jersey should be required to make its tariffs easier to understand and user-friendly, in a manner which would further the goals of restructuring and competition. The current tariffs should clearly set forth a distinct charge for gas supply and gas distribution service for each customer class. The current separate tariffs for supply and transportation service should be combined into one tariff for each customer class with the separate charges for supply and distribution service. The shopping credit should be easily identifiable to customers.

7. The Board should reject the proposed Capacity Allocation Back-up (“CAB”) charge. South Jersey should offer voluntary capacity assignment at the utility’s weighted average cost of capacity available to all customers, large and small, regardless of telemetering. If South Jersey can prove realistic reliability concerns, the concerns can be met through sufficient economic penalties for TPS underdeliveries or other mechanisms such as comparable capacity offerings. The Board should reject any stranded cost recovery placeholder proposal in the UTC charge as speculative. If South Jersey can in the future prove some actual stranded costs, it should first prove that it has taken all possible mitigation measures. Other responses to this concern would be utility sharing of these costs or other recovery mechanisms.
8. The Board should begin a review of South Jersey’s margin sharing mechanism so any modifications can be in place for the 2000-2001 winter season.
9. South Jersey should be required to identify and quantify its social programs, including the proper level of uncollectibles due to social programs for disadvantaged customers, so that these costs may be included in its SBC. South Jersey should also provide itemized costs of its consumer education programs that have been incurred to date and projected in the future, when it proposes to begin charging these costs in the SBC. The SBC should not be made a catchall cost recovery mechanism where any and all costs that South Jersey would like to recover can be included.
10. Any future proposal to allow interest on under-recovery balances for costs included in the SBC should be addressed on a component-by component basis, and “one-way” interest should be preserved at least for those components on which the utility is not now permitted to recover interest for under-recovery balances.
11. If the Board allows interest on under-recoveries of the SBC, it would be more appropriate to use a short- or intermediate-term debt rate to be consistent with the Board’s Orders in the electric restructuring proceeding. This debt rate should also be used for other SBC components for which interest is allowed.
12. The Board must reject deferral of costs that are recoverable under the SBC unless it has previously specifically authorized deferred accounting. The SBC should be reviewed and reconciled annually in LGAC proceedings.
13. The SBC must apply to all South Jersey’s consumers with no special exemptions.
14. For customer account services, South Jersey should be required to provide a complete average embedded cost study by March 1, 2001 and develop credits and charges for the three billing options which are a single bill from South Jersey, separate billing by South Jersey and the TPS and a single bill from the TPS.

15. The Board should require South Jersey to submit its proposal for the universal service fund programs, costs and funding.
16. If South Jersey decides to purchase the receivables of a TPS, the Board should direct that South Jersey is prohibited from shutting off service or threatening to shut off service for nonpayment of the TPS receivables
17. South Jersey should be required to make the following information available to TPSs and to government aggregators:
  - Within two weeks of receipt of a customer's request, South Jersey should provide the usage data (for residential) or load profile (for commercial and industrial customers) for the past 12-month period to any customer making such a request.
  - South Jersey should provide aggregate load profiles and an address listing of gas customers by rate class and by municipal or county jurisdiction. At a minimum, South Jersey must agree to provide such data by zip code classifications, and any provided data should be in electronic form.
  - South Jersey should maintain and disseminate a list of licensed third-party suppliers operating in their service area to their customers twice a year, and they should maintain a current TPS listing on their Internet web site.

Respectfully submitted,

BLOSSOM A. PERETZ, ESQ.,  
RATEPAYER ADVOCATE,

By: \_\_\_\_\_  
Badrhn M. Ubushin  
Deputy Ratepayer Advocate

Date: November 16, 1999